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UNITED STATES DISTRICT COURT

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WESTERN DISTRICT OF NEW YORK

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CARLOS A. SANTIAGO

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14CV6719

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Plaintiff)

vs.

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Rochester, New York

CITY OF ROCHESTER, ET AL)

July 22, 2021

8

Defendant.

2:00 p.m.

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STATUS CONFERENCE

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TRANSCRIPT OF PROCEEDINGS
 BEFORE THE HONORABLE MARK W. PEDERSEN
 UNITED STATES MAGISTRATE JUDGE

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THE CLERK: We are on the record. This is the matter of case numbers 14CV6719; Santiago verses the City of Rochester, et al; 19CV6859, Santiago, et al versus the City of Rochester Police Department, et al; and 19CV6860, Santiago et al versus City of Rochester Police Department, et al.

MAGISTRATE JUDGE PEDERSEN: Good. So do I have in the courtroom Mr. Noone?

MR. NOONE: Yes, your Honor.

MAGISTRATE JUDGE PEDERSEN: Good morning.

MR. NOONE: Good morning.

MAGISTRATE JUDGE PEDERSEN:

MR. DEFRANCESCO: Chris DeFrancesco on behalf of Nurse Odel.

MAGISTRATE JUDGE PEDERSEN: Welcome, Mr. DeFrancesco.

MS. RODI: Marie Rodi on behalf of Monroe County.

MAGISTRATE JUDGE PEDERSEN: Marie Rodi.

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11:21:21 2 I've seen you before. Sorry I didn't recognize you and
11:21:45 3 you're just on one case?

11:21:48 4 MS. LAFFREDO: Melissa Laffredo.

11:21:49 5 MAGISTRATE JUDGE PEDERSEN: Ms. Laffredo, I
11:21:51 6 do not see you in any of the cases on my --

11:21:54 7 THE CLERK: Your Honor, she is listed in
11:21:56 8 cases 19CV6860 and 6859.

11:22:04 9 MAGISTRATE JUDGE PEDERSEN: 6860 and 6859.

11:22:09 10 Could you spell the name for me, please?

11:22:18 11 MR. SANTIAGO: Carl Santiago.

11:22:19 12 MAGISTRATE JUDGE PEDERSEN: Mr. Santiago,
11:22:20 13 you are the Plaintiff, so that is easy.

11:22:23 14 Melissa, could you spell your last name for
11:22:25 15 me?

11:22:30 16 MS. LAFFREDO: L-a-f-f-r-e-d-o.

11:22:30 17 MAGISTRATE JUDGE PEDERSEN: I'm sorry, yes,
11:22:31 18 you're in here. You're one of the Plaintiffs.

11:22:34 19 MS. LAFFREDO: Yes.

11:22:39 20 THE CLERK: I'm sorry. To anyone that has a
11:22:41 21 speaking role, pull the microphone back to you. So if
11:22:46 22 any court reporter has to take this down, they are free
11:22:50 23 standing.

11:22:51 24 MAGISTRATE JUDGE PEDERSEN: This is the case
11:22:52 25 where we tried to do a scheduling conference, but your

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11:22:55 2 babysitter was late and I guess she has cataracts and
11:22:58 3 she is still driving?

11:23:00 4 MS. LAFFREDO: No, she had surgery and she
11:23:02 5 is doing better.

11:23:03 6 Now. That was in between when she had her
11:23:07 7 first eye done, when she had both eyes done and the
11:23:10 8 light is very blinding to her. She had to pull over
11:23:14 9 several times. We did arrive, but, obviously, you had
11:23:18 10 closed court for the day, but we're here today.

11:23:22 11 MAGISTRATE JUDGE PEDERSEN: Your attorney,
11:23:23 12 Mr. Davenport, has been relieved.

11:23:25 13 MS. LAFFREDO: Yes.

11:23:27 14 MAGISTRATE JUDGE PEDERSEN: So you two are
11:23:28 15 proceeding, pro se?

11:23:29 16 MS. LAFFREDO: Yes.

11:23:29 17 MAGISTRATE JUDGE PEDERSEN: Our purpose
11:23:31 18 today is to get this case on track, especially the case
11:23:34 19 from 2014.

11:23:35 20 MS. LAFFREDO: Yes.

11:23:36 21 MAGISTRATE JUDGE PEDERSEN: Let's deal with
11:23:37 22 that case first. The scheduling dates on that date have
11:23:40 23 all expired because the discovery was supposed to be
11:23:44 24 done by -- July 30th of 2021. Okay. So that date is
11:23:49 25 still open. Where do we stand on discovery for the

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11:23:53 2 Santiago versus Shawn Jordan, et al, 14CV6719?

11:24:02 3 MS. LAFFREDO: I believe we put in, we had,
11:24:09 4 from what I recall, all of the discovery was put in for
11:24:12 5 both sides. I'm not sure that they received anything
11:24:20 6 for what we had from our side, and, however, Carlos did
11:24:27 7 adhere to the scheduling order, so if there is anything,
11:24:31 8 we would like to hear of it today.

11:24:34 9 MAGISTRATE JUDGE PEDERSEN: Who would like
11:24:35 10 to go first on the defense side?

11:24:37 11 MR. NOONE: I will. When we discussed the
11:24:40 12 scheduling before, at one point Judge Geraci issued the
11:24:46 13 decision on Motion for Summary Judgment that struck
11:24:49 14 everything except for excessive force and one other
11:24:53 15 element, maybe the qualified immunity with regard to the
11:24:57 16 arrest that occurred back in 2013. So some of the
11:25:00 17 discovery demands that were served by counsel when he
11:25:04 18 represented Mr. Santiago had to do with, among other
11:25:10 19 things, a *Monell* claim, and some of the other things
11:25:14 20 stricken from the complaint. What I was going to do is
11:25:18 21 take a look at what is left and make a determination as
11:25:21 22 to what to supply, some things have something to do with
11:25:26 23 the remaining issues in the case. It's more
11:25:29 24 streamlined. I don't believe depositions were conducted
11:25:33 25 yet. This case took a while to get off the ground.

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11:25:38 2 This case involved motions before even me. I think we
11:25:41 3 need to have a scheduling order that would encompass all
11:25:44 4 of the developments here, all of the items through
11:25:50 5 dispositive motions.

11:25:52 6 MAGISTRATE JUDGE PEDERSEN: So redo the
11:25:54 7 whole thing?

11:25:55 8 MR. NOONE: Yes.

11:25:55 9 MAGISTRATE JUDGE PEDERSEN: And you're on
11:25:56 10 all three cases, so I assume that applies, the other two
11:26:00 11 have not had dispositive motions, have they?

11:26:04 12 MR. NOONE: 6860 did. We don't have a
11:26:09 13 decision from Judge Geraci. It was the same type of
11:26:12 14 motion. My sense is we'll be left with the same type of
11:26:16 15 thing we were left with the 2014 case. We're waiting to
11:26:20 16 see what the decision is there to produce to see what
11:26:25 17 would be relevant and what would not be. The 6859 case,
11:26:59 18 we haven't been able to do much on that, either.

11:27:02 19 Counsel's motion to withdraw stalled things and then I'm
11:27:06 20 also waiting for some information pursuant to a sealing
11:27:09 21 order from the district attorney's office with regard to
11:27:12 22 Mr. Santiago's arrest that day to make a determination
11:27:15 23 as to what to do with regard to that case. I have a
11:27:18 24 feeling there will be a dispositive motion in that one
11:27:21 25 as well.

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11:27:21 2 MAGISTRATE JUDGE PEDERSEN: All right. So
11:27:22 3 let's just start with the 2014 case, which has already
11:27:26 4 had a dispositive motion, and already has what, one or
11:27:29 5 two pending?

11:27:30 6 MR. NOONE: Yes.

11:27:31 7 MAGISTRATE JUDGE PEDERSEN: So it might be
11:27:34 8 the qualified immunity and excessive force.

11:27:37 9 MR. NOONE: Yes.

11:27:37 10 MAGISTRATE JUDGE PEDERSEN: So what he is
11:27:41 11 asking you to do, Mr. Santiago and Ms. Laffredo, is
11:27:46 12 revamp the entire schedule for the 2014 case, including
11:27:49 13 all discovery dispositive motions, expert discovery, et
11:27:53 14 cetera. So let's see. Can I assume that the initial
11:28:02 15 disclosures have already --

11:28:05 16 MR. NOONE: Rule 26s have.

11:28:08 17 MR. DEFRANCESCO: Yes, your Honor.

11:28:08 18 MAGISTRATE JUDGE PEDERSEN: So what we're
11:28:10 19 really dealing with is factual discovery, including
11:28:13 20 depositions, any further documents, any further
11:28:16 21 depositions.

11:28:23 22 MS. RODI: Your Honor, if I may, there have
11:28:35 23 been no initial disclosures on behalf of the County. We
11:28:38 24 have a pending 12(c) motion to dismiss. That has not
11:28:59 25 been briefed at all because it was made on March 28th

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11:29:02 2 and it was made, basically, at the same time the motion
11:29:05 3 to withdraw was made by counsel, so until we had it
11:29:09 4 settled on who was representing Plaintiffs, there has
11:29:31 5 been no briefing.

11:29:32 6 MAGISTRATE JUDGE PEDERSEN: Okay. So that
11:29:33 7 is in the 6759 case.

11:29:44 8 MS. RODI: Yes, your Honor.

11:29:45 9 THE COURT: Okay, pending 12(c) motion. Has
11:29:47 10 Judge Geraci put out a schedule for that?

11:29:52 11 MS. RODI: I believe there was a schedule
11:29:54 12 put out early on and then the motion to withdraw and
11:29:57 13 then we received no opposition, understandably.

11:30:01 14 MAGISTRATE JUDGE PEDERSEN: Let me see if I
11:30:05 15 can find that. Mr. Bock will probably beat me to it.

11:31:33 16 THE CLERK: ECF 114, your Honor. Text order
11:31:40 17 on 3/28/21: "Defendant Monroe County filed motion for
11:31:45 18 judgment on the Pleadings, ECF 113. Plaintiff's
11:31:49 19 response is due on or before 4/23/21. Defendant may
11:31:52 20 reply on or before 4/30/21. Once the matter is fully
11:31:53 21 briefed, the Court will review the briefing and
11:31:55 22 determine if oral argument is necessary. And if so, the
11:31:58 23 Court will notify the parties of the date and time, so
11:32:00 24 ordered."

11:32:01 25 MAGISTRATE JUDGE PEDERSEN: And I'm looking

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11:32:03 2 after Mr. Bock's recitation here at the calendar event
11:32:08 3 from April 5th, that was me. April 5th, letter order,
11:32:13 4 April 5th, April 5th. Next entry is April 20th, that
11:32:17 5 was me. April 21, 21, okay. So anything after what Mr.
11:32:28 6 Bock just read, which was Judge Geraci's briefing
11:32:31 7 schedule of April 5th, is all me, so has nothing to do
11:32:34 8 with the 12(c) motion, so the 12(c) motion has not been
11:32:38 9 responded to.

11:32:39 10 MS. RODI: That's correct, your Honor.

11:32:40 11 MAGISTRATE JUDGE PEDERSEN: And the
11:32:41 12 Plaintiffs have not requested additional time. So, the
11:32:44 13 first thing you need to do in the 2014 case is ask Judge
11:32:49 14 Geraci for time to respond to ECF No. 113, which is the
11:32:54 15 motion for judgment on the pleadings by Monroe County
11:32:58 16 filed on March 28, 2021. Mr. Bock, could you print out
11:33:03 17 a public docket sheet for Plaintiffs on that?

11:33:07 18 THE CLERK: Yes.

11:33:08 19 MS. LAFFREDO: Also, your Honor, prior to
11:33:13 20 Carlos and I hiring Rupp, Baase and Pfalzgraf firm. I
11:33:20 21 had put in a motion for all of the cases to be
11:33:22 22 consolidated. This has been going on for so long and
11:33:26 23 what it's done to our livelihood and both of our
11:33:30 24 well-being and family mentally and emotionally, it's
11:33:34 25 just, it has to come to an end. And I don't know where

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11:33:38 2 anybody else feels, I would like their feelings on the
11:33:43 3 other side as to how they feel about, you know, doing it
11:33:46 4 all together, because it's just being dragged out for
11:33:50 5 way too long.

11:33:51 6 MAGISTRATE JUDGE PEDERSEN: Understood. I
11:33:53 7 don't see a pending motion for consolidation.

11:33:56 8 MS. LAFFREDO: There was never an answer.

11:33:57 9 MAGISTRATE JUDGE PEDERSEN: For the 2014
11:33:59 10 case, do you recall such a motion?

11:34:02 11 MR. NOONE: I recall, I believe, a letter.

11:34:04 12 MAGISTRATE JUDGE PEDERSEN: Could you pull
11:34:05 13 your mike a little closer?

11:34:07 14 MR. NOONE: I recall there -- I believe
11:34:09 15 there was a letter that was submitted. I don't
11:34:12 16 understand that it ever constituted a formal motion. I
11:34:16 17 don't know why the 2014 case would be consolidated with
11:34:20 18 the later cases, there is no similarity here. There is
11:34:24 19 -- one involved a car pursuit and an arrest; the others
11:34:28 20 had to do with neighbor issues with regard to where Ms.
11:34:32 21 Laffredo and Mr. Santiago were residing back in 2018.
11:34:35 22 So, if there is a motion, I would like an opportunity to
11:34:39 23 oppose it.

11:34:40 24 MAGISTRATE JUDGE PEDERSEN: Certainly. Do
11:34:46 25 you recall about what time, Ms. Laffredo, you filed the

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11:34:48 2 letter? Mr. Bock has handed you a print out of the
12:23:30 3 docket sheet of the 2014 case.

12:23:33 4 MS. LAFFREDO: Sure.

12:23:38 5 MAGISTRATE JUDGE PEDERSEN: Mr. Noone, feel
12:23:41 6 free to pull that mike up closer. If you prefer to half
12:23:45 7 stand, that's okay.

12:23:47 8 And, Ms. Laffredo, the only basis for
12:23:50 9 consolidation is because there are similar parties or
12:23:53 10 similar.

12:23:53 11 MS. LAFFREDO: So there are several officers
12:23:55 12 that were on scene at the Jordan arrest that were also
12:23:58 13 on scene on mine and Carlos's arrest in October of 2018
12:24:04 14 and the following arrest, also.

12:24:06 15 MAGISTRATE JUDGE PEDERSEN: So what I will
12:24:07 16 do is I will ask you to file such a motion formally and
12:24:12 17 I'll set a date for that as well, and then I can
12:24:16 18 consider it and the other side will respond and then we
12:24:19 19 can have an oral argument, if necessary, and I can make
12:24:22 20 a determination. I'm not sure if it's mine to decide or
12:24:26 21 it's up to the district judge. In any event, I'll deal
12:24:28 22 with it first.

12:24:29 23 MS. LAFFREDO: Thank you.

12:24:30 24 MAGISTRATE JUDGE PEDERSEN: All right. So
12:24:32 25 Mr. Noone since you began this, what do you suggest for

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12:24:35 2 a closing date for paper and deposition discovery on the
12:24:39 3 facts?

12:24:40 4 MR. NOONE: With regard to the 6719?

12:24:45 5 MAGISTRATE JUDGE PEDERSEN: Yes. The '14
12:24:46 6 case. And I understand the County of Monroe is going to
12:25:29 7 be difficult because there is the pending 12(c) motion.

12:25:32 8 MR. NOONE: Right.

12:25:34 9 MS. RODI: Right. Also, to help Mr. Noone a
12:25:37 10 bit, they, the City Law Department submitted unsealing
12:25:43 11 orders and subpoenas to the district attorney's office
12:25:46 12 in March, and, I apologize, it's the County that has
12:25:49 13 delayed and I will make sure that that request gets
12:25:53 14 fulfilled as soon as possible.

12:25:55 15 MAGISTRATE JUDGE PEDERSEN: Thank you.

12:25:56 16 MS. RODI: We may need up to -- they have
12:25:58 17 been inundated with subpoenas lately, they may need up
12:26:02 18 to 60 days to get the materials to the law department.

12:26:05 19 MAGISTRATE JUDGE PEDERSEN: Okay. What if
12:26:06 20 we were to say that fact discovery closes at the end of
12:26:11 21 October? Would that provide enough time and assuming
12:26:16 22 that the 12(c) motion can be decided between now and
12:26:19 23 October, and if it's not, then we have to extend
12:26:23 24 further, and, of course, on your 12(c) motion, Ms. Rodi,
12:26:28 25 would that take care of the entire case against the

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12:26:32 2 county if it were granted.

12:26:34 3 MS. RODI: Yes, your Honor.

12:26:35 4 MAGISTRATE JUDGE PEDERSEN: Okay. So it

12:26:36 5 sounds like we need to do something separate for the

12:26:39 6 city and for the individual defendant. And Mr.

12:26:57 7 DeFrancesco, who do you represent?

12:27:03 8 MR. DEFRANCESCO: Ms. Odel, your Honor.

12:27:07 9 MAGISTRATE JUDGE PEDERSEN: Ms. Odel. And

12:27:09 10 does Ms. Odel have any pending dispositive motions?

12:27:14 11 MR. DEFRANCESCO: She does not.

12:27:15 12 MAGISTRATE JUDGE PEDERSEN: Okay. So for

13:18:11 13 everybody except the County of Monroe, we can set a

13:18:17 14 scheduling order with real dates. For the County of

13:18:20 15 Monroe, I'll do a springing scheduling order that will

13:18:25 16 spring from decision date.

13:18:26 17 MS. RODI: Thank you, your Honor.

13:18:27 18 MAGISTRATE JUDGE PEDERSEN: That way there

13:18:28 19 is something in the works in the event Judge Geraci

13:18:32 20 makes his decision, I don't have to call you back again

13:18:35 21 to revise all of the scheduling dates.

13:18:37 22 MR. NOONE: Your Honor, would it be possible

13:18:39 23 to have the factual discovery deadline end in mid

13:18:43 24 November? I'm answering to a higher power. My wife

13:18:46 25 mentioned we're taking a vacation at the end of October.

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13:18:50 2 MAGISTRATE JUDGE PEDERSEN: Okay. So what
13:18:51 3 I'm hoping is this will be the final scheduling order
13:18:54 4 for this case as far as everybody but the County of
13:19:01 5 Monroe goes. So if we end factual discovery, let's say,
13:19:05 6 the 19th of November, which is the Friday before
13:19:09 7 Thanksgiving week. So that will be 11/19/21. Now are
13:19:17 8 the authorizations already provided? Plaintiff is to
13:19:21 9 provide them by February 12th.

13:19:24 10 MR. DEFRANCESCO: We're missing one
13:19:26 11 authorization, your Honor, that we've requested, and I
13:19:44 12 actually brought it with me and intend to confer with
13:19:47 13 Plaintiffs afterwards.

13:19:48 14 MAGISTRATE JUDGE PEDERSEN: Okay. So the
13:19:49 15 authorizations can probably be completed by, let's say,
13:19:54 16 July. What is today, the 22nd, July 30, just to make
13:20:00 17 sure if there is some discrepancy. So, Plaintiffs, you
13:20:05 18 understand that he is looking for one more
13:20:08 19 authorization. If there is a dispute about it, we can
13:20:10 20 resolve that. Actually, I'm gone that week, so probably
13:20:14 21 August 6th we'll deal with that one then. If we can, if
13:20:19 22 you two can agree on it by August 6th, no problem, that
13:20:24 23 date will come and go. If you can't agree, if there is
13:20:27 24 some dispute, you'll have to bring it back to me. If
13:20:30 25 you can do that before August 6th, I appreciate it.

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13:20:33 2 MS. LAFFREDO: Absolutely.

13:20:35 3 MAGISTRATE JUDGE PEDERSEN: And we had a
13:20:37 4 separate date here set for the Plaintiff to provide
13:20:40 5 authorizations and interrogatories. Is there a need for
13:20:43 6 the date for interrogatories any further? I'm looking
13:20:49 7 at the scheduling order that was issued January 27th of
13:20:53 8 this year.

13:20:58 9 MR. DEFRANCESCO: I'm trying to recall, your
13:21:00 10 Honor. I don't think we have any outstanding
13:21:02 11 interrogatories. I'll double check that.

13:21:04 12 MAGISTRATE JUDGE PEDERSEN: That will be
13:21:05 13 subsumed in factual discovery anyway.

13:21:08 14 MR. DEFRANCESCO: Yes.

13:21:09 15 MAGISTRATE JUDGE PEDERSEN: So that date
13:21:10 16 there, I'll leave, and I'll cross this out. Motions to
13:21:13 17 compel discovery. We will do -- let's do those November
13:21:25 18 5th. And all factual witness depositions, actually, all
13:21:35 19 depositions and paper discovery is going to be completed
13:21:39 20 November 19th. Okay. So that takes care of fact
13:23:36 21 discovery. Everything finishes November 19th. The
13:23:40 22 authorization issue, we'll deal with by August 6th.
13:23:44 23 Anything further on fact discovery?

13:23:46 24 MR. DEFRANCESCO: No, your Honor.

13:23:48 25 MAGISTRATE JUDGE PEDERSEN: All right. Now

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13:23:49 2 we have identification of experts and expert discovery.

13:23:55 3 Do the Plaintiffs anticipate hiring an expert?

13:23:59 4 MS. LAFFREDO: Yes.

13:24:00 5 MAGISTRATE JUDGE PEDERSEN: So let's set a
13:24:01 6 date then for expert discovery. We're heading into the
13:24:05 7 holidays, so is it possible you can identify your expert
13:24:09 8 witness and give a report to the other sides by the end
13:24:13 9 of December?

13:24:16 10 MS. LAFFREDO: Yes.

13:24:28 11 MAGISTRATE JUDGE PEDERSEN: Okay. Let's
13:24:29 12 make the Plaintiff's identification of expert and
13:24:32 13 production of report by 12/21/21, that is a Friday.
13:24:37 14 Office will probably be closed, but I assume you'll do
13:24:40 15 it before then. That means that the Defendant's expert
13:24:44 16 -- can the Defense expert be identified by the end of
13:24:48 17 January, which is a Monday, January 31st, 2022.

13:24:54 18 MR. DEFRANCESCO: Yes, your Honor.

13:24:55 19 MAGISTRATE JUDGE PEDERSEN: 1/31/22. Now we
13:24:58 20 deal with expert depositions and any further follow up
13:25:01 21 on expert discovery, should I allow a month for that,
13:25:05 22 should I allow two months. What is your feeling, Mr.
13:25:07 23 Noone?

13:25:08 24 MR. NOONE: I would say two, just depending
13:25:10 25 on the nature of the expert. There may be some

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13:25:13 2 confusion here that things kind of get muddled because
13:25:17 3 there are three cases. With regard to the Jordan case,
13:25:19 4 it goes back to 2014, involving a car pursuit. It's a
13:25:26 5 medical expert, it may take some doing to try and get
13:25:30 6 them scheduled after the first of the year may be
13:25:32 7 difficult, but I think two months would probably be
13:25:35 8 adequate.

13:25:35 9 MR. DEFRANCESCO: I agree.

13:25:36 10 MAGISTRATE JUDGE PEDERSEN: So we'll allow
13:25:37 11 two months for expert discovery, meaning that your
13:25:40 12 reports have already been exchanged, your expert is
13:25:44 13 looking at their report, and your expert is looking at
13:25:47 14 your report, and then you can depose the expert, you can
13:25:52 15 depose theirs and they can depose yours, we'll allow two
13:25:58 16 months. Sometimes experts are difficult to schedule.
13:26:01 17 That takes us to the end of March. March 31 is a
13:26:07 18 Thursday. Now, it usually takes at least 30 days to get
13:26:14 19 deposition transcripts, sometimes longer, and it's less
13:26:17 20 expensive the lesser you give them to complete it.
13:26:21 21 Thirty days is kind of the cut off. So, if we allow two
13:26:24 22 months for transcripts, then another month for creating
13:26:30 23 dispositive motions, since we've got several parties
13:26:33 24 involved, is that too much time or too little time?

13:26:38 25 MR. NOONE: I think it's about right.

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13:26:40 2 MAGISTRATE JUDGE PEDERSEN: That would bring
13:26:41 3 us to June 30 for dispositive motions. Okay. And under
13:26:57 4 Local Rule 7, there is a briefing schedule already set,
13:26:59 5 but if Judge Geraci decides, he can schedule his own
13:27:05 6 briefing schedule with regard to dispositive motions.
13:27:12 7 Okay.

13:27:14 8 Ms. Rodi, what I'll do then is I'll take
13:27:17 9 those amounts of time, and for the Monday County one say
13:27:21 10 from the date of the decision, assuming that it's a
13:27:25 11 decision that doesn't completely dispose of the case.
13:27:29 12 From the date of that decision, I'll allow X number of
13:27:33 13 days or months for factual discovery and so forth. Your
13:27:36 14 case might be going on a slightly different track. Does
13:27:39 15 that confuse stuff for the other two parties?

13:27:45 16 MR. DEFRANCESCO: No, your Honor.

13:27:45 17 MR. NOONE: No, I don't think so.

13:27:46 18 MAGISTRATE JUDGE PEDERSEN: Okay. So Monroe
13:27:51 19 County, springing scheduling order from date of
13:28:01 20 decision. Now, the Plaintiffs can help this along by
13:28:07 21 contacting Judge Geraci's Chambers today to get a
13:28:12 22 briefing schedule change if he'll allow it on the 12(c)
13:28:24 23 motion they have pending. 12(c) means they are
13:28:28 24 contending that if you look at your Complaint and you
13:28:31 25 look at their answer, those are enough for you to decide

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13:28:34 2 there is no way this case should go forward against the
13:28:36 3 County of Monroe. So if Judge Geraci agrees with their
13:28:40 4 position, then he would cut the County of Monroe as a
13:28:44 5 party. If he doesn't agree, then the County of Monroe
13:28:47 6 goes forward, the date he makes that decision is when
13:28:51 7 we're measuring discovery in that case and we'll allow
13:28:54 8 the same amount of time for that. Although, maybe he
13:28:58 9 has issued the decision, we'll revisit that if
13:29:01 10 necessary, okay?

13:29:02 11 MS. LAFFREDO: So you're asking me to phone
13:29:04 12 Judge Geraci's Chambers and ask him to make a decision
13:29:15 13 on the 12(c) motion by the County?

13:29:20 14 MAGISTRATE JUDGE PEDERSEN: Well, they filed
13:29:23 15 their motion, you haven't responded. If you ask Judge
13:29:27 16 Geraci to please decide it, you're saying, I give up,
13:29:30 17 kill it, kill it all. So you really want Judge Geraci
13:29:34 18 to allow you some time to respond to the motion, unless
13:29:36 19 you don't want to.

13:29:37 20 MS. LAFFREDO: Yes, we will, thank you.

13:29:39 21 MAGISTRATE JUDGE PEDERSEN: If you want to
13:29:40 22 respond to the motion, you have to ask him for time to
13:29:43 23 do that.

13:29:44 24 MS. LAFFREDO: Okay.

13:29:45 25 MAGISTRATE JUDGE PEDERSEN: And if he allows

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13:29:46 2 that, then you respond and he reads the papers and
13:29:49 3 decides if he wants to hear from you orally, and, if
13:29:52 4 not, he'll issue a decision and either grant their
13:30:21 5 motion, which means they are out of the case or deny the
13:30:24 6 motion, which means they stay in or something in
13:30:27 7 between. Okay?

13:30:28 8 MS. LAFFREDO: Okay, yes.

13:30:30 9 MAGISTRATE JUDGE PEDERSEN: Okay. That
13:30:32 10 deals with the 2014 case. Let's go onto the 6859 case.
13:30:48 11 This is against the city police department, Tyshawn
13:31:12 12 Williams, Joseph Bonnacci, Mary Barnes, Melanie Rivera,
13:31:28 13 Brad Elliot and John Does.

13:31:30 14 So, Mr. DeFrancesco, are you involved in any
13:31:35 15 of these other cases?

13:31:37 16 MR. DEFRANCESCO: I am not, your Honor.

13:31:38 17 MAGISTRATE JUDGE PEDERSEN: So unless you
13:31:39 18 want to stay, you're welcome to go.

13:31:42 19 MR. DEFRANCESCO: I just want to try and get
13:31:44 20 the authorizations signed and so I'll hang out.

13:31:48 21 MAGISTRATE JUDGE PEDERSEN: Why don't you do
13:31:49 22 that, because I don't want to run the clock while you
13:31:54 23 sit here.

13:31:56 24 MS. RODI: Your Honor, the County is not
13:32:01 25 involved in the other cases as well.

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13:32:05 2 MAGISTRATE JUDGE PEDERSEN: You're

13:32:06 3 dismissed.

13:32:09 4 (Whereupon, there was a break in the

13:32:09 5 proceeding.)

13:32:10 6 MAGISTRATE JUDGE PEDERSEN: This is Santiago

13:32:10 7 and we have the cases remaining 19CV6859 and 19CR6860.

13:32:18 8 In the courtroom are Mr. Santiago and Melissa Laffredo

13:32:23 9 and present in the courtroom is also Mr. Noone

13:32:25 10 representing his clients. The other attorneys have left

13:32:28 11 because their clients don't have a stake in the other

13:32:31 12 two cases. So, on the 6859 case, we had a scheduling

13:32:41 13 order that was issued January 27th as well, 2020. And

13:32:50 14 that closed off. That was a springing one. No later

13:32:56 15 than 30 days following the rendering of the decision by

13:33:09 16 Judge Geraci with the pending Rule 12 motion, the

13:33:12 17 parties shall select a mediator and so forth. Has Judge

13:33:17 18 Geraci made a decision?

13:33:18 19 MR. NOONE: On 6859?

13:33:20 20 MAGISTRATE JUDGE PEDERSEN: 6859.

13:33:21 21 MR. NOONE: I don't think there was a motion

13:33:23 22 made in that one. Ms. Rodi, I think, made reference to

13:33:27 23 the 12(c) motion in the 6719 case. That was what she

13:33:31 24 was referring to when she mentioned the unsealing orders

13:33:35 25 that I sent over and that suggested that it may take 60

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13:33:38 2 days to have the County respond or the DA's office
13:33:42 3 respond. So Williams, 6860, the third case is the one
13:33:46 4 where we have a pending motion for summary judgment. We
13:33:50 5 don't have a decision on yet.

13:33:52 6 THE COURT: Okay. So we'll deal with that
13:33:54 7 one last then. So as far as 6859 goes, that is ready to
13:33:59 8 go through with discovery?

13:34:01 9 MR. NOONE: As soon as we get the unsealing
13:34:04 10 order, yes. That is what Ms. Rodi was referring to,
13:34:07 11 it's been there since March and they have not had a real
13:34:11 12 opportunity to provide me with documents that I need for
13:34:13 13 that one.

13:34:14 14 THE COURT: And there has not been anything
13:34:31 15 issued in that case?

13:34:33 16 MR. NOONE: Nothing.

13:34:35 17 MAGISTRATE JUDGE PEDERSEN: Not even
13:34:36 18 exchange of discovery?

13:34:38 19 MR. NOONE: I'd have to check. I think
13:34:40 20 there may have been Rule 26 disclosure provided, but I
13:34:44 21 would have to check. I think there was.

13:34:45 22 MAGISTRATE JUDGE PEDERSEN: Plaintiffs, any
13:34:47 23 comment on the 6859 case?

13:34:50 24 MS. LAFFREDO: I'd have to go through and
13:34:52 25 look through the records that Chad gave back to us, I'm

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13:34:57 2 not sure. I thought that was -- I mean, to the best of
13:35:02 3 my knowledge, it was completed.

13:35:04 4 MAGISTRATE JUDGE PEDERSEN: What is the "it"
13:35:05 5 that was completed?

13:35:06 6 MS. LAFFREDO: The interrogatories, any
13:35:12 7 interrogatories that were asked for, any documentation.

13:35:17 8 MAGISTRATE JUDGE PEDERSEN: Okay. So let's
13:35:18 9 see, this is the one, this is August 22nd, 2018, 2:45
13:35:49 10 p.m. concerning Gary Cook, this case.

13:35:53 11 MR. NOONE: No, your Honor. That is the
13:35:55 12 6860 case. 6859 was from October 16, 2018, it was about
13:36:00 13 2:30 in the afternoon.

13:36:01 14 MAGISTRATE JUDGE PEDERSEN: Then this is
13:36:03 15 misfiled. Hmm, Mr. Bock, could you take a look at --
13:36:08 16 shoot, I lost track of it here. The system I have, this
13:36:12 17 is the 6859 case file, right? Yes. Just a little bit
13:36:18 18 of the Complaint.

13:36:21 19 THE CLERK: Certainly, your Honor.

13:36:23 20 MAGISTRATE JUDGE PEDERSEN: Just print the
13:36:24 21 whole Complaint, 6859.

13:36:27 22 THE CLERK: You'd like the whole Complaint
13:36:29 23 printed?

13:36:29 24 MAGISTRATE JUDGE PEDERSEN: How many pages
13:36:31 25 is it?

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13:36:32 2 THE CLERK: Still loading.

13:36:34 3 MR. NOONE: I may have misspoke.

13:36:36 4 MS. LAFFREDO: Your Honor, to the best of my
13:36:38 5 knowledge, there was a scheduling order and the Defense
13:36:43 6 side did not adhere to what the scheduling order was and
13:36:48 7 there was never a response and they did not give any
13:36:51 8 interrogatories or answers to documentation,
13:36:56 9 interrogatories. And I believe there was -- they asked
13:37:00 10 for an extension and it was denied, so, I mean.

13:37:05 11 MAGISTRATE JUDGE PEDERSEN: Okay. One
13:37:06 12 through eleven, pages one through eleven, Mr. Bock.

13:37:09 13 MR. NOONE: I may have misspoke, 59 may be
13:37:13 14 the one from August 28 of 2018. That is the one where
13:42:15 15 we don't have a decision yet on the summary judgment
13:42:19 16 motion.

13:42:19 17 MAGISTRATE JUDGE PEDERSEN: So 59 was the
13:42:20 18 pending one.

13:42:22 19 MR. NOONE: Yes, I apologize. I may have
13:42:25 20 misspoken on that one.

13:42:27 21 MAGISTRATE JUDGE PEDERSEN: In that case
13:42:28 22 then, I don't need to change anything because it's all
13:42:31 23 springing, right? Yeah. Let's see.

13:42:34 24 MR. NOONE: Yeah, that makes sense.

13:42:37 25 MAGISTRATE JUDGE PEDERSEN: Except it did

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13:42:39 2 cite some dates for discovery. Okay. So some of it,
13:42:45 3 the mediation portion was springing and the rest of it
13:42:53 4 was with firm dates. I have the Complaint in 6859.
13:43:37 5 Tyson Williams, Joseph Bonnacci, Mary Barnes, other
13:43:42 6 officers, Melanie Rivera. Excuse me, first claim is
13:43:53 7 August 22nd, 2018 at or about 10:45 p.m. involving Gary
13:44:08 8 Cook arrested for harassment and menacing with a knife
13:44:21 9 threatening Carlos Mia A. Santiago, and the dog, and
13:44:31 10 threatening to bury them in his yard. Sounds like a
13:44:39 11 delightful neighbor. So the mediation portion of that
13:44:50 12 scheduling order was set and the rest of it said firm
13:44:55 13 date, and we don't have a decision from Judge Geraci.
13:45:11 14 What will happen is -- it is a partial summary judgment
13:45:14 15 or full?

13:45:15 16 MR. NOONE: No, full.

13:45:15 17 MAGISTRATE JUDGE PEDERSEN: Okay, full. So
13:45:17 18 sounds to me like we need to set the rest of it up to
13:45:21 19 spring as well. What he is saying is that he filed a
13:45:23 20 motion for summary judgment in 6859 with your neighbor,
13:45:28 21 and if Judge Geraci grants that motion, that case is
13:45:31 22 done. Have you responded to his motion? You don't
13:45:36 23 know?

13:45:36 24 MS. LAFFREDO: I have no idea.

13:45:38 25 MR. SANTIAGO: We never heard anything like

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13:45:40 2 that.

13:45:40 3 MS. LAFFREDO: I never knew there was a
13:45:42 4 motion for summary judgment.

13:45:46 5 MAGISTRATE JUDGE PEDERSEN: Okay. Mr. Bock,
13:45:49 6 you want to print a docket sheet out?

13:45:52 7 MR. SANTIAGO: The attorney we had before
13:45:54 8 did not communicate with us at all, so that is why we
13:45:59 9 had to get rid of him, with all of the other attorneys
13:46:02 10 as well.

13:46:02 11 MS. LAFFREDO: And, also, if I may, when
13:46:09 12 Honorable Feldman was presiding before you, he had -- he
13:46:13 13 asked us, too, if we needed representation from the
13:46:17 14 Court, and we said yes. And what happened was Baase and
13:46:25 15 Pfalzgraf, came into our lives at that point. However,
13:46:28 16 that is the third set of attorneys that we've had, and,
13:46:34 17 at this point, we really need the Court to appoint an
13:46:40 18 attorney for us. We're at the point where I can only do
13:46:57 19 so much and I read the federal rules and the local rules
13:47:00 20 so many times and I pull out information and it's very
13:47:04 21 stressful. I'm only one person. I can't -- I need
13:47:08 22 somebody who is going to fight for Carlos and myself and
13:47:13 23 fight for what has happened and the violation of his
13:47:18 24 human rights and his civil rights. It has just
13:47:24 25 continued and continued years and years. It's a vicious

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13:47:27 2 cycle, and we really need to be represented by somebody
13:47:30 3 that has our best interest at hand.

13:47:34 4 MAGISTRATE JUDGE PEDERSEN: Did Judge
13:47:49 5 Feldman assign the Rupp firm?

13:47:51 6 MS. LAFFREDO: At that point, I mean, he
13:47:53 7 stepped down.

13:47:54 8 MR. SANTIAGO: If you go back to the
13:47:55 9 minutes, go back in the minutes.

13:47:57 10 MS. LAFFREDO: He stepped down and he said
13:47:59 11 to do my best and gather as much as I could and do the
13:48:04 12 best that I could and he would address it at a later
13:48:07 13 time and then he stepped down and there was a woman that
13:48:10 14 we worked with in Buffalo, and we asked if she could be
13:48:17 15 -- I had written a document and turned it into the
13:48:20 16 Court, if she could be the representation for Carlos and
13:48:23 17 I. I had spelled her last name wrong. It's not Ann
13:48:27 18 Marie Richardson, it's Ann Marie Richards, and she works
13:48:33 19 pro bono for U.S. District Court. And I asked for her
13:48:57 20 representation. I had spelled the last name wrong and
13:48:59 21 they said we don't know who that is, she doesn't exist.
13:49:03 22 And that is what I'm asking for. I'm asking for her
13:49:06 23 representation, if she is still part of the pro bono
13:49:11 24 action. However, you guys, I don't know if it's
13:49:14 25 considered pro bono if the United States District Court

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13:49:19 2 finds an attorney, but her name is Ann Marie Richmond,
13:49:24 3 not Richardson.

13:49:26 4 MAGISTRATE JUDGE PEDERSEN: Okay. I'm just
13:49:27 5 looking through the docket here. Okay. So you were
13:49:53 6 represented by counsel as of May 22, 2020, because Judge
13:49:58 7 Geraci mentions that in his text order, so counsel
13:50:01 8 probably made an appearance prior to that. Motion for
13:50:07 9 leave to proceed in forma pauperis. It doesn't look
13:50:11 10 like this was referred to Judge Feldman. It sat for
13:50:17 11 quite a while. You were granted --

13:50:21 12 MS. LAFFREDO: It was the date that we were
13:50:23 13 in front of Judge Feldman quite some time ago.

13:50:26 14 MAGISTRATE JUDGE PEDERSEN: This case was --
13:50:27 15 -- the District Judge Geraci granted in forma pauperis
13:50:32 16 on November 22, 1919. Ordered you to file an amended
13:50:38 17 Complaint. You requested extended time to do that and
13:50:41 18 then you filed your amended Complaint, February 13 of
13:50:47 19 2020. On May 22, 2020 ECF No. 8, if you look at No. 8,
13:51:12 20 "Plaintiffs now represented by counsel filed an amended
13:51:16 21 complaint ECF No. 7: "Because Plaintiffs are no longer
13:51:29 22 proceeding pro se, the Court is no longer required to
13:51:32 23 screen the amended Complaint, therefore, the Clerk of
13:51:35 24 Court shall issue a summons and shall cause the United
13:51:39 25 States Marshal to serve the Defendants. So ordered."

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13:51:39 2 Signed by Judge Geraci. Summons was issued and there
13:51:43 3 was an acknowledgement of service. Answer was filed
13:51:49 4 July 6th, 2020. And then on July 7th, 2020, the case
13:51:53 5 was assigned to me because I took office November 6th,
13:51:57 6 2019. So this particular case was never before Judge
13:52:02 7 Feldman. And we had a status conference.

13:52:10 8 MS. LAFFREDO: Right. It was prior to all
13:52:11 9 of this happening when we were in front of Judge
13:52:14 10 Feldman, so it was probably --

13:52:15 11 MAGISTRATE JUDGE PEDERSEN: Probably on the
13:52:16 12 '14 case.

13:52:17 13 MS. LAFFREDO: It was for the '14 case.

13:52:19 14 MAGISTRATE JUDGE PEDERSEN: Yeah, probably
13:52:20 15 on the '14 case. So there is no request for
13:52:23 16 representation in this case. Is that something you
13:52:26 17 would like to make?

13:52:27 18 MS. LAFFREDO: Yes, please. For all of --

13:52:30 19 MAGISTRATE JUDGE PEDERSEN: All of the
13:52:31 20 cases?

13:52:31 21 MS. LAFFREDO: Yes.

13:52:32 22 MAGISTRATE JUDGE PEDERSEN: So what I
13:52:32 23 suggest what you do is file a motion in each of the
13:52:36 24 cases. That will probably disrupt the schedule again.

13:52:56 25 MS. LAFFREDO: I understand. We do need

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13:52:58 2 representation, so whatever needs to happen first.

13:53:00 3 MAGISTRATE JUDGE PEDERSEN: Let me tell you
13:53:02 4 something off of the record for a moment.

13:53:02 5 (Whereupon, there was a discussion off the
13:53:06 6 record.)

13:53:06 7 THE CLERK: One moment, your Honor. We are
13:53:10 8 back on the record.

13:53:11 9 MAGISTRATE JUDGE PEDERSEN: While off the
13:53:13 10 record, we had a brief discussion about the prior
13:53:27 11 attorney's withdrawal and I informed both Plaintiffs if
13:53:29 12 they wish to make a motion for appointment of counsel
13:53:33 13 pro bono, they may do so in each of these cases, that it
13:53:36 14 may disrupt the schedule that we're putting in place,
13:53:39 15 but so be it. The only thing I see pending in case No.
13:53:45 16 6859 is a motion filed on October 16th, 2020, docket No.
13:53:52 17 21, and it's titled "Motion to Dismiss for Failure to
13:53:58 18 State a Claim." Let me make sure that is really what it
13:54:01 19 is. We're looking at the Notice of Motion signed by Mr.
13:54:04 20 Noone and it's looking for 12(c) relief. It's not a
13:54:10 21 summary judgment, it's a 12(c).

13:54:12 22 MR. NOONE: Yes.

13:54:12 23 MAGISTRATE JUDGE PEDERSEN: Okay. So
13:54:15 24 pending 12(c) motion. And, Ms. Laffredo, if you read
13:54:20 25 the rules, you understand the difference between Rule 12

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13:54:23 2 and Rule 56?

13:54:43 3 MS. LAFFREDO: Yes.

13:54:43 4 MAGISTRATE JUDGE PEDERSEN: So this is a
13:54:44 5 Rule 12 motion. And it doesn't appear to me it's ever
13:54:48 6 been fully briefed. These cases are a mess schedule
13:54:59 7 wise. So I'm not sure whether it's worthwhile trying to
13:55:02 8 set a schedule for discovery while we have the 12(c)
13:55:06 9 pending, and we may also have a motion for appointment
13:55:09 10 of counsel. So, I'm inclined, at this point, Mr. Noone,
13:55:14 11 to let the schedules lapse with the idea that if indeed
13:55:19 12 I do appoint or actually I appoint, at that point, I
13:55:23 13 request the assignment of pro bono counsel from our
13:55:28 14 coordinator in Buffalo and if she can find somebody
13:55:34 15 willing to take on the cases, would that be just for the
13:55:36 16 discovery phase of the case, discovery and motion
13:55:41 17 practice, because it's easier to get a lawyer if I limit
13:55:45 18 the scope of the appointment to pretrial stuff?

13:55:48 19 MS. LAFFREDO: Okay.

13:55:49 20 MAGISTRATE JUDGE PEDERSEN: And then if we
13:55:51 21 actually get to the trial, then maybe you want to ask me
13:55:54 22 to ask the attorney to stay on if he or she agrees to do
13:56:08 23 so. And if not, ask for different counsel for the trial
13:56:12 24 phase.

13:56:13 25 MS. LAFFREDO: Yes.

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13:56:13 2 MAGISTRATE JUDGE PEDERSEN: But most cases
13:56:15 3 in Federal Court resolve by settlement between the
13:56:20 4 parties.

13:56:21 5 MS. LAFFREDO: Yes.

13:56:22 6 MAGISTRATE JUDGE PEDERSEN: And Mr. Noone
13:56:23 7 was telling me before we came back on the record, again,
13:56:26 8 for this case, earlier, that the case that I helped with
13:56:30 9 did resolve a civil case similar to this kind of thing
13:56:33 10 where the police were alleged to have used unlawful
13:56:37 11 force and violated a Plaintiff's right to privacy under
13:56:40 12 the Fourth Amendment. And that case has revolved with a
13:56:44 13 financial resolution. That might end up in this case as
13:56:51 14 well, but I think some more discovery has to go first.

13:57:22 15 MS. LAFFREDO: Yes. I honestly don't see us
13:57:24 16 going to trial after all of the discovery has been
13:57:27 17 submitted on both sides.

13:57:28 18 MAGISTRATE JUDGE PEDERSEN: It will either
13:57:29 19 resolve, most likely, by motion or by settlement between
13:57:33 20 the parties.

13:57:34 21 MS. LAFFREDO: Yes.

13:57:34 22 MAGISTRATE JUDGE PEDERSEN: So if we have a
13:57:35 23 lawyer to help organize things to get the discovery
13:57:48 24 finished, I think that may be useful. So I'm going to
13:57:52 25 leave these two cases without a scheduling order. I'll

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13:57:55 2 put a scheduling order on the '14 case, that is so old.

13:57:59 3 And, of course, the schedule may get rejected, but we'll

13:58:02 4 work with that when that happens.

13:58:05 5 MS. LAFFREDO: Sounds good.

13:58:06 6 MAGISTRATE JUDGE PEDERSEN: If you can file

13:58:06 7 a motion in each of the cases for the assignment of pro

13:58:10 8 bono counsel, I'll act on that.

13:58:11 9 MS. LAFFREDO: Absolutely. And what time

13:58:13 10 frame will you give me to do that? I can do it ASAP.

13:58:17 11 MAGISTRATE JUDGE PEDERSEN: What time frame

13:58:18 12 do you need, because that is the time frame I'm going to

13:58:21 13 give you. Today is the 22nd of July, I'm gone all next

13:58:25 14 week, so I won't be doing anything on it the next week.

13:58:28 15 MS. LAFFREDO: How about the following

13:58:30 16 Friday? The following Friday after you come back?

13:58:32 17 MAGISTRATE JUDGE PEDERSEN: You talking

13:58:33 18 about July 30th, August 6th. If you file it July 30th,

13:58:39 19 I won't be here, but Mr. Noone gets an opportunity to

13:58:42 20 respond. Mr. Noone, I'll set a brief schedule that is

13:58:46 21 instead of the full 14 days, I'll give you a week to

13:58:50 22 respond if you even want to. Generally, Defense Counsel

13:58:53 23 don't reply to motions requesting assignment of pro bono

13:59:13 24 counsel. In some cases, they probably secretly say,

13:59:29 25 yes, because it makes the case simpler for everybody.

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13:59:32 2 Not that you're not adequate to help represent
13:59:35 3 yourselves. But it's easier when you have somebody that
13:59:38 4 has done this before.

13:59:39 5 MS. LAFFREDO: Yes. I'm not saying that I
13:59:41 6 can't do it, I believe in myself and I've done it this
13:59:44 7 far.

13:59:45 8 MAGISTRATE JUDGE PEDERSEN: Yes.

13:59:46 9 MS. LAFFREDO: However, sometimes, you know,
13:59:49 10 I question myself, too.

13:59:52 11 MAGISTRATE JUDGE PEDERSEN: Certainly.

13:59:52 12 MS. LAFFREDO: So if there was somebody who
13:59:54 13 was very familiar with Federal Court.

13:59:59 14 MAGISTRATE JUDGE PEDERSEN: Federal civil
14:00:00 15 practice.

14:00:00 16 MS. LAFFREDO: And these types of cases to
14:00:02 17 help us along, I would really appreciate that.

14:00:05 18 MAGISTRATE JUDGE PEDERSEN: Okay. So what
14:00:07 19 I'm going to do is give you to July 30th to file your
14:00:12 20 request for appointment of pro bono counsel. You have
14:00:17 21 to file each of the papers and then I'll give Mr. Noone
14:00:21 22 and the other Defense Counsel to August 6th to respond
14:00:24 23 and I'll issue a decision after August 6th.

14:00:27 24 Mr. Bock, have you got all of that in your
14:00:29 25 minutes?

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14:00:30 2 MS. LAFFREDO: Thank you.

14:00:31 3 MAGISTRATE JUDGE PEDERSEN: Okay. Good. So
14:00:33 4 for the 59 and 60 cases, we'll leave the scheduling
14:00:40 5 orders as is and let them lapse and deal with your
14:00:45 6 motion for appointment of counsel. Are there any other
14:00:54 7 issues that we need to discuss?

14:00:56 8 MR. NOONE: I'm not aware of any, your
14:00:59 9 Honor, no.

14:00:59 10 MS. LAFFREDO: Is it possible for Carlos and
14:01:02 11 I to have a copy of the minutes for today of whatever
14:01:06 12 was spoken on?

14:01:16 13 THE CLERK: Are you talking about the
14:01:17 14 transcripts?

14:01:18 15 MS. LAFFREDO: Yes.

14:01:19 16 MAGISTRATE JUDGE PEDERSEN: That comes at an
14:01:21 17 expense.

14:01:22 18 THE CLERK: What you will want to do is
14:01:27 19 after I do the minute entry for all three cases, you're
14:01:33 20 going to contact -- I'll write all of this down for you
14:01:36 21 -- Jane Kellogg in Buffalo, the transcript coordinator,
14:01:40 22 and she will advise you to call on the court reporters
14:01:46 23 to do so and there is a form.

14:01:49 24 MAGISTRATE JUDGE PEDERSEN: It's expensive,
14:01:52 25 it's more than a dollar a page. Do you have any idea

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14:01:55 2 what is costs?

14:01:55 3 MR. NOONE: I remember requesting them
14:01:59 4 before and I think, your Honor, is correct.

14:02:04 5 THE COURT: And if you want it in 30 days.

14:02:09 6 THE CLERK: It's based on how many pages it
14:02:11 7 is and how long.

14:02:14 8 MS. LAFFREDO: I'll reach out. As long as I
14:02:16 9 have the information and can proceed with her.

14:02:20 10 MAGISTRATE JUDGE PEDERSEN: Is there
14:02:21 11 something that we talked about today that you
14:02:23 12 specifically want to focus on? His minutes are going to
14:02:26 13 cover what we just set for scheduling and I'll issue the
14:02:31 14 scheduling order in the '14 case?

14:02:35 15 MR. SANTIAGO: The reason I ask for it, as I
14:02:37 16 said, the judge before did say he was going to assign us
14:02:43 17 counsel and we had problems. We could have used it a
14:02:48 18 long time ago.

14:03:04 19 MS. LAFFREDO: All of this is for Carlos's
14:03:06 20 record.

14:03:06 21 MR. SANTIAGO: The defendant will be paying
14:03:07 22 for it later on.

14:03:10 23 MAGISTRATE JUDGE PEDERSEN: The defendant
14:03:11 24 will be paying for necessary costs if you win on the
14:03:14 25 liability issue. Whether a transcript of today's

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14:03:18 2 proceeding is necessary would probably be disputed and

14:03:20 3 then it would be up to the judge who is making the

14:03:24 4 determination to decide if the cost should be passed on.

14:03:26 5 MS. LAFFREDO: I definitely would like to

14:03:28 6 request it just for the record.

14:03:29 7 MAGISTRATE JUDGE PEDERSEN: It's always

14:03:30 8 going to sit here, so you could request it much later.

14:03:34 9 MR. SANTIAGO: Yeah, I could.

14:03:35 10 MAGISTRATE JUDGE PEDERSEN: After the case

14:03:36 11 is done, even if you want to.

14:03:40 12 MR. SANTIAGO: Not after the case is done.

14:03:42 13 MAGISTRATE JUDGE PEDERSEN: I'm trying to

14:03:43 14 save you some money; there is no guarantee.

14:03:47 15 MS. LAFFREDO: I don't think it's about the

14:03:50 16 money for Carlos, and I don't mean to interrupt you.

14:04:15 17 Because of everything that has happened to him and the

14:04:18 18 head trauma, he has sever PTSD because of this. He

14:04:23 19 doesn't remember things that were said or what was said

14:04:25 20 and to have it right in front of him to refer to, that

14:04:29 21 is what the issue is. He has short-term memory loss.

14:04:33 22 He suffered mentally, emotionally, psychologically, that

14:04:52 23 is why he wants to have the transcript.

14:04:54 24 MAGISTRATE JUDGE PEDERSEN: And you already

14:04:55 25 took care of the release issue on the 2014 case this

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14:05:00 2 morning in court?

14:05:01 3 MS. LAFFREDO: Yes, Carlos signed the
14:05:03 4 authorization form. It had to be specific as to what
14:05:05 5 records were given from the Monroe County Jail and it
14:05:08 6 was never determined as to -- it was called primary
14:05:12 7 care, it had to be in front of all of it. So it's
14:05:16 8 another authorization because it had to state the exact
14:05:19 9 name of where it was coming from Monroe County.

14:05:22 10 MAGISTRATE JUDGE PEDERSEN: Yes, very good.
14:05:24 11 From your viewpoint, is there anything else that we need
14:05:26 12 to cover?

14:05:27 13 MS. LAFFREDO: Not at this time. Carlos,
14:05:29 14 anything else that you would like to discuss?

14:05:31 15 MR. SANTIAGO: No. Thank you, your Honor.

14:05:32 16 THE COURT: So we're adjourned without a
14:05:34 17 date and I'm looking for your motions and any response
14:05:37 18 that you or the other defendants want to file and then
14:05:40 19 we'll proceed.

14:05:41 20 MS. LAFFREDO: Thank you.

14:05:42 21 MR. SANTIAGO: Thank you.

14:05:43 22 MS. LAFFREDO: Have a very blessed day.

14:05:45 23 MAGISTRATE JUDGE PEDERSEN: You too.

24 * * *

25 CERTIFICATE OF REPORTER

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3 I certify that the foregoing is a correct transcript
4 of the record to the best of my ability of proceedings
5 transcribed from the audio in the above-entitled matter.

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7 S/ Karen J. Clark, RPR

14:05:41 8 Official Court Reporter you, your Honor.

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